

In re Patent Application of
Rothan, et al.
Serial No. 10/733,785
Filed December 11, 2003

REMARKS

Applicants express their appreciation for the Examiner's careful review of the application and hereby respond to the outstanding Office action. Applicants focus their arguments below on the independent claims, since if these are found patentable, their dependent claims will necessarily also be patentable.

Corrected Drawings Are Enclosed

In response to the Examiner's concerns regarding the originally filed drawings, new drawing figures are enclosed. The description of the figures has been amended in the specification, in accordance with the substitute drawings.

The Specification Has Been Corrected

The Examiner has pointed out a typographical error on page 1, line 21, where the word "with" has been omitted. This error has been corrected and Applicants appreciate the Examiner pointing this out.

With regard to the use throughout the specification and claims of the term "therethrough", Applicants believe the Examiner's automatic spell-check program flagged this term as a misspelled word. Applicants have enclosed a photocopy of Webster's New Universal Unabridged Dictionary, Second Edition, 1983, showing the spelling and a definition of that term in the left-hand column, sixth definition down. Applicants respectfully assert that the term "therethrough" is properly used and spelled in the application, and that there is no need to change this term.

The Claims Are Definite

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Claims 26-27 and 33-34 have been corrected to address the lack of antecedent deficiencies noted by the Examiner.

The Claims Are Novel Over The Reference By Pisula

Claim 13 stands rejected as anticipated by the Pisula reference. In that regard, the Examiner cited the published patent application by Pisula (US Publication 2004/0095776), however, this application has now issued as US Patent No. 6,830,363 and is referred by Applicants as such.

Pisula does not describe a bicycle seat-post lamp having a reflector connected to a housing, although the Examiner has indicated that he is broadly construing the Pisula claims. It appears to Applicants that the Examiner is equating Pisula's glow tube (element 101) to the reflector recited in claim 13. For that reason, Applicants have amended claim 13 to more clearly recite that the reflector is connected to the housing spaced apart from the diffuser. This wording change should make it clear that the diffuser and the reflector are distinct structural elements of the seat-post lamp being claimed. Pisula does not describe a bicycle lamp which includes this combination of elements. Accordingly, claim 13 is not anticipated by the Pisula reference, and Applicants respectfully request that the examiner withdraw the rejection based on this reference.

The Examiner has also rejected claim 25 as anticipated by the Pisula reference. Claim 25 has been amended to recite that the light source is positioned within a housing selected from the first or second housings. The Examiner has recognized that Pisula does not teach a housing containing at least one light source (Office action, p. 14 at paragraph 39). Accordingly, Pisula cannot anticipate claim 25 and Applicants respectfully request withdrawal of the rejection under Section 102.

The Claims Are Nonobvious In View Of The Cited References

Claim 1 stands rejected under 35 USC §103(a) as obvious in view of the combined references of Pisula and Burnham (US Patent No. 6,017,335). Applicants respectfully disagree and assert that the reference by Burnham is non-analogous art to the present application and, consequently, is not available for use in a rejection of the claims. The invention described by Burnham is a reinforced catheter and a method for making same.

The scope of analogous art, according to Judge Randall Rader, turns on the following inquiries. (1) Whether the art is from the same "field of endeavor," regardless of the problem addressed. Clearly, the Burnham reference is not in the same field of endeavor with bicycle lamps. (2) If the reference is not within the field of the inventor's endeavor, whether the reference still is "reasonably pertinent" to the particular problem with which the inventor is involved. The problem addressed in the present invention is one of adding a lamp to a bicycle, particularly for increased visibility of the bike in low light conditions. Again, this is clearly not the problem being addressed by Burnham, and no one of ordinary skill in the art of bicycles and bicycle lamps would be expected to look in the catheter art for assistance. In re Bigio, 381 F.3d 1320 (Fed. Cir., 2004), 72 USPQ2d 1209. Accordingly, Applicants respectfully suggest that the obviousness rejection of claim 1 based on the combined references of Pisula and Burnham is improper and should be withdrawn.

The Examiner has also rejected claim 35 under 35 USC §103(a) as obvious over the combined references of Pisula and Fujita et al. (US Patent No. 6,517,213). Applicants again assert that the Fujita reference constitutes non-analogous art to the presently claimed bicycle seat-post lamp and is not available for use in the rejection.

Fujita et al. describe an indicator lamp used in an industrial/manufacturing plant on the control panel for manufacturing equipment. In their own words they describe that their lamp is "a device provided on a panel surface of the control panel to inform the operator of the system condition, and assumes a dominant position in a man-machine interface for a safe operation of the system by the operator." See Fujita et al. at column1, lines 39-43.

Following the analysis set out above, the Fujita et al. invention is clearly not in the same field of endeavor as the present invention, which is a bicycle seat-post lamp. Furthermore, no one skilled in the art of bicycles and bicycle lamps would be reasonably expected to look to the art of industrial controls for guidance applicable to bicycle inventions.

For those reasons, Applicants respectfully assert that the invention described by Fujita et al. is non-analogous art and is not available for use in an obviousness rejection of the present claims. Applicants, therefore, request that the Examiner withdraw the obviousness rejection of claim 35 based on the cited references.

Claims 43-48 have been cancelled without prejudice and their rejection is now moot.

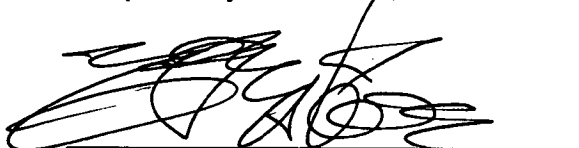
Conclusion

In view of the amendments and the remarks presented herein, it is submitted that these claims are patentable. In addition, their respective dependent claims, which recite yet further distinguishing features, are also patentable and require no further discussion.

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If the further prosecution can be facilitated through a telephone conference between the Examiner and the undersigned, the Examiner is respectfully requested to telephone the undersigned.

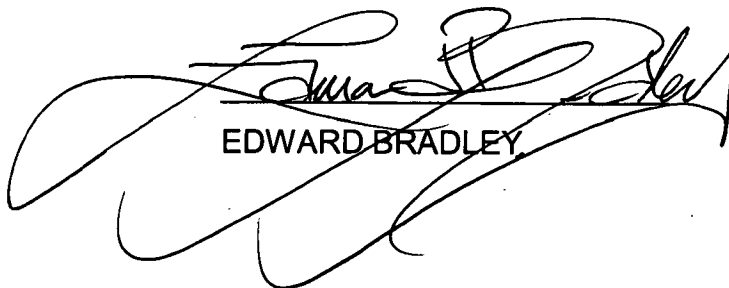
Respectfully submitted,



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EDWARD BRADLEY

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In the Drawings:

Please cancel without prejudice originally filed FIGS. 1-8 and substitute FIGS. 1-6 which are enclosed. The substitute figures include corrections to the drawings, as required by the Examiner.